

Remarks

The Applicants have amended Claim 1 to incorporate a portion of the subject matter of Claim 3 into Claim 1. The corresponding language in Claim 3 has accordingly been amended. The Applicants respectfully request that this amendment be entered into the official file inasmuch as it does not require further searching, does not raise new issues since the subject matter has already been under consideration and places the entire Application into condition for allowance.

Claims 1-3 and 5-7 stand rejected under 35 USC §102 or alternatively §103 over Maurer. The Applicants note with appreciation the Examiner's detailed comments hypothetically applying Maurer against those claims under both §102 and §103. The Applicants nonetheless respectfully submit that Maurer does not anticipate nor render obvious Claims 1-3 and 5-7. Reasons are set forth the below.

The rejection states that Maurer discloses cellulose acetate propionate in column 3, lines 3-7. The Applicants reproduce that language below for the Examiner's convenience as it is exactly disclosed:

The melt-blown formed fabric according to the invention comprises fibers of cellulose esters. These can be, for example, cellulose acetate, cellulose acetobutyrate, acetopropionate and propionate and the like. Preferred is cellulose acetate.

The Applicants agree that column 3, lines 3-7, discloses cellulose acetate and agree that it also discloses propionate. However, column 3, lines 3-7, do not disclose cellulose acetate propionate. For example, there are any number of combinations that might involve propionate such as, for example, cellulose propionate butyrate. Thus, the mere inclusion of propionate as a possibility does not serve as a direct disclosure of cellulose acetate propionate. Withdrawal of the rejection based on §102 is accordingly respectfully requested.

The rejection also relies on inherency of the glass transition temperature, strength and CV properties based on the melt-blown non-woven material of Maurer. The Applicants note that reliance on inherency requires that the claimed properties are “necessarily” present based on the disclosure of Maurer. It is not enough that the claimed properties “might be” or “could be” or even possibly “most likely” present. The claimed characteristics must “necessarily” be present.

The Applicants respectfully submit that the properties are not only not present based on the disclosure of Maurer, but are actually quite different. In that regard, the Applicants invite the Examiner’s attention to Comparative Example 4 of the Applicants’ Specification and Table 1. Comparative Example 4 may be found beginning at the bottom of page 30 of the Applicants’ Specification and Table 1 is on page 32.

The Applicants took 75 wt % of cellulose acetate propionate and 25 wt % of polyethylene glycol with a molecular weight of 800 as a plasticizer. In accordance with the rejection (although the Applicants do not agree), this is all disclosed by Maurer. The Applicants produced pellets from those starting materials and those pellets were spun by a melt-blowing method in which the resulting fiber was drawn in a high-temperature, high-pressure air flow blown to the nozzle, followed by splitting and formation of a sheet. The plasticizer was then removed from the resulting non-woven fabric.

The Applicants respectfully submit that this is essentially a direct comparison with Maurer inasmuch as Maurer also teaches forming non-woven fabrics by the melt-blowing method. Also, Maurer discloses extraction of the softening agent (plasticizer). Thus, the Applicants respectfully submit that Comparative Example 4 is a direct representation of the teachings of Maurer in a side-by-side comparison with the Applicants’ non-woven fabrics.

Table 1 shows the problems associated with Comparative Example 4 such as, for example, the CV is far too high and is 30. That is compared to a CV of 10 or less in the case of

the Applicants' non-woven fabrics. This can potentially be due to the differences in methodology in producing the Applicants' non-woven fabrics such as by melt-spinning, as opposed to melt-blowing. Thus, the Applicants respectfully submit that they have provided factual proof that the Applicants' claimed fabrics and the filaments that comprise those fabrics are not only not inherently the same as Maurer, but likely to be inherently different.

The Applicants' Specification essentially provides a direct comparison between the Applicants' components and methodology, versus that of Maurer in Comparative Example 4 by selecting components (according to the rejection) that are directly disclosed by Maurer in the prescribed amounts and utilizing a method disclosed by Maurer to make non-woven fabrics. That direct comparison shows differences in properties such as the claimed CV property to the point that the Applicants have shown that the CV property is inherently different from the non-woven fabrics of Maurer. As such, the Applicants respectfully submit that Maurer does not demonstrate inherency such that the claimed characteristics are "necessarily" present. The Applicants have demonstrated that the claimed CV property is likely not present. This does not meet the standard for rejection based on inherency. Withdrawal of the §102 and §103 rejections is respectfully requested.

In light of the foregoing, the Applicants respectfully submit that the entire Application is now in condition for allowance, which is respectfully requested.

Respectfully submitted,



T. Daniel Christenbury
Reg. No. 31,750
Attorney for Applicants

TDC/vp
(215) 656-3381